

**REGULATIONS
FOR THE ADMINISTRATION OF THE
GRAFTON WETLANDS PROTECTION BYLAW**

GRAFTON CONSERVATION COMMISSION
MUNICIPAL CENTER
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SECTION I- GENERAL PROVISIONS

A. Authority

These Regulations are promulgated under the authority of the Home Rule Amendment Article LXXXIX (89), of the amendments of the Constitution of Massachusetts, 1966, and in accordance with the 1987 Grafton General Wetlands Protection Bylaw and shall be effective upon fulfillment of all legal requirements.

Massachusetts General Laws (MGL), Ch. 131, § 40, the Massachusetts Wetlands Protection Act, and Chapter 310 CMR 10.00 Wetlands Regulations are hereby incorporated by reference and made a part hereof, except as otherwise modified by the Grafton Wetlands Protection Bylaw and the Regulations promulgated herein and any subsequent amendments.

B. Purpose

These Regulations are promulgated to create a uniformity of process and to clarify and define the provisions of Article 25 of the 1987 Grafton General Wetlands Protection Bylaw, hereafter called the “Bylaw,” administered by the Grafton Conservation Commission, hereafter called the “Commission.” The original regulations took effect on June 13, 1988.

C. Fee Schedule

Procedures:

1. Permit fees shall be paid at the time of application. Checks shall be made payable to the Town of Grafton. Filing fees are additive and apply to each activity or portion of an activity proposed within a jurisdictional area. Filing fees will be calculated by the applicant per the schedule below. Such fee calculation shall be subject to approval by the Commission. Filing fees are non-refundable. This filing fee is in addition to any state filing fees, any other bylaw fees, consultant fees, and legal advertisement fees.
2. Payment of all required fees, including legal advertisement fees and abutters list fees, shall be the responsibility of the applicant.
3. Municipal, County, State and Federal projects are exempt from fees.

Fees:

1. Request for Determination of Applicability (RDA)
 - a. Project Applicability Determination \$25.00
 - b. Delineation Determination (3 acres or less) \$50.00
 - c. Delineations for projects larger than 3 acres require the filing of an ANRAD (see #2 below)
2. Abbreviated Notice of Resource Area Delineation (ANRAD)
 - a. Less than 10 acres \$50.00
 - b. 10-25 acres \$75.00
 - c. 25-100 acres \$100.00
 - d. Larger than 100 acres \$100.00 +
\$0.25 per linear foot of wetland boundary after the first 1000 linear feet
3. Notice of Intent
 - a. Single family dwelling \$100.00
 - b. Multi-family dwelling \$100.00 per dwelling unit
 - c. Commercial and industrial buildings \$300.00
 - d. Roadways and infrastructure \$300.00 +
\$500.00 for each crossing

- e. Driveway to single family residence (buffer zone only) \$50.00
- f. Driveway to single family residence (with crossing) \$100.00
- g. Common driveway has same fees as single family driveways above
- h. Septic system construction, upgrade, or repair \$50.00
- i. Residential addition, garage, deck, pool, shed \$50.00
- j. Parking lot less than 25 spaces \$100.00
- k. Parking lot 25-50 spaces \$200.00
- l. Parking lot more than 50 spaces \$500.00
- m. Oil or hazardous waste cleanup projects \$100.00
- n. Any other residential activities not found above \$50.00
- o. Any other commercial/industrial activities not found above \$300.00

4. Miscellaneous

- a. Waivers \$50.00
- b. Amended Order of Conditions \$50.00 *
*additional fees at discretion of Commission
- c. Request for Extension of Order of Conditions \$50.00
- d. Request for Certificate of Compliance (1st inspection) no charge
2nd and subsequent inspections if site does not pass \$25.00 each

NOTES: Fees for all filings submitted after the commencement of work will be doubled.
If the activity is within the Riverfront Area and another resource area or the
Riverfront Area and another resource area's buffer zone, add 50% to the total
fee (multiply the fee by 1.5).

D. Rules for Hiring Consultants

As provided by MGL Ch. 44 § 53G, the Commission may impose reasonable fees for the employment of outside consultants, engaged by the Commission, for specific expert services deemed necessary by the Commission to come to a final decision on an application submitted to the Commission pursuant to the requirements of the Wetlands Protection Act (MGL Ch. 131 § 40), the Grafton Wetlands Protection Bylaw, the Conservation Commission Act (GL Ch. 40 § 8C), or any other state or municipal statute, bylaw or regulation, as they may be amended or enacted.

Funds received by the Commission pursuant to these rules shall be deposited with the town treasurer who shall establish a special account for this purpose. Expenditures from this special account may be made at the direction of the Commission without further appropriation as provided in GL Ch. 44 §53G. Expenditures from this account shall be made only in connection with the review of a specific project or projects for which a consultant fee has been collected from the applicant.

Specific consultant services may include, but are not limited to: resource area survey and delineation, analysis of resource area values, hydrogeologic and drainage analysis, impacts on municipal conservation lands, and environmental or land use law. The consultant shall be chosen by, and report only to, the Commission and/or its Administrator.

The Commission shall give written notice to the applicant of the selection of an outside consultant, which shall state the identity of the consultant, the amount of the fee to be charged to the applicant, and a request for payment of said fee in its entirety. Such notice shall be deemed to have been given on the date it is mailed, emailed, or hand delivered. No such costs or expenses shall be incurred by the applicant if the application or request is withdrawn within five days of the date notice is given.

The fee must be received in its entirety prior to the initiation of consulting services. The Commission may

request additional consultant fees if necessary review requires a larger expenditure than originally anticipated or new information requires additional consultant services. Failure by the applicant to pay the consultant fee specified by the Commission within ten (10) business days of the request for payment shall be cause for the Commission to determine that the application is administratively incomplete (except in the case of an appeal). The Commission shall state such in a letter to the applicant, copied to the DEP. No additional review or action shall be taken on the Wetlands Permit request until the applicant has paid the requested fee.

The applicant may appeal the selection of the outside consultant to the Board of Selectmen, who may disqualify the outside consultant selected only on the grounds that the consultant has a conflict of interest or does not possess the minimum required qualifications. The minimum qualifications shall consist of either an educational degree or three (3) or more years of practice in the field at issue or a related field. Such an appeal must be submitted in writing to the Board of Selectmen with a copy submitted to the Commission. The appeal must be received within ten (10) days of the date that consultant fees were requested by the Commission. The required time limits for action upon the application shall be extended by the duration of the administrative appeal.

E. Waivers from Regulations

Strict compliance with the Regulations may be waived when, in the judgment of the Commission, such action is consistent with the intent and purpose of the Bylaw and Regulations. The applicant shall have the burden of proof that granting the waiver is consistent with the intent and purpose of the Bylaw and Regulations. Any request for a waiver must be submitted to the Commission in writing on the appropriate form within the application packet. The Commission shall act upon the request during the public hearing and the written decision will become a part of the issued Wetlands Permit(s).

SECTION II- DEFINITIONS

The following definitions shall apply in the interpretation and implementation of the Bylaw and Regulations:

1. **ADJOINING LAND AREAS:** the area of land extending 100 feet horizontally outward from the boundary of any land specified in 310 CMR 10.02
2. **ALTER:** includes, without limitation, the following actions when undertaken in areas subject to the Bylaw and Regulations:
 - a. Removal, excavation or dredging of soil, sand, gravel, or aggregate materials of any kind;
 - b. Changing of pre-existing drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns, or flood retention characteristics;
 - c. Drainage or other disturbance of water level or water table;
 - d. Dumping, discharging or filling with any material which may degrade water quality;
 - e. Placing of fill or removal of material which could alter elevation;
 - f. Driving of piles, erection of buildings, or structures of any kind;
 - g. Placing of obstructions or objects in water;
 - h. Destruction or dislocation of plant life, including cutting and removing of trees;
 - i. Changing water temperature, biochemical oxygen demand or other physical or chemical characteristics of the water;
 - j. Any activities, changes, or work which pollutes or causes displacement of any body of water or groundwater;
 - k. Any activities, changes, or work which causes alteration of wildlife habitat.
3. **BURDEN OF PROOF:** the applicant shall have the burden of proving by a preponderance of credible evidence that the work proposed in the application will not have an unacceptable, significant, and cumulative effect upon the wetland values protected by this Bylaw. Failure to provide adequate evidence to the Commission supporting this burden shall be sufficient cause for the Commission to deny a Wetlands Permit or to grant a Wetlands Permit with conditions.

4. **INUNDATION BY GROUNDWATER:** having groundwater at or near the surface of the ground at least six (6) months of the year.
5. **LAND SUBJECT TO FLOODING:** both: 1) “bordering land subject to flooding” as defined in the Wetland Protection Act (G.L. Ch 131 §40) and Regulations (310 CMR 10.00) and 2) an isolated depression or closed basin without an inlet or an outlet that is an area which at least once a year, during most years, confines standing water due to flooding or inundation by groundwater, surface water, or storm flowage, to a volume of at least 500 cubic feet and to an average depth of at least six (6) inches.
6. **POND:** any open body of fresh water, either naturally occurring or manmade by impoundment, with a surface area observed or recorded within the last ten (10) years of at least 2,000 square feet, and which is never without standing water due to natural causes, except during periods of extended drought. For purposes of this definition, extended drought shall mean any period of four (4) or more months during which the average rainfall for each month is 50 percent or less of the ten (10) year average for that same month. Basins or lagoons which are part of wastewater treatment plants shall not be considered ponds, nor shall swimming pools or other impervious man-made retention basins.
7. **STREAM:** a body of running water, including brooks and creeks, which moves in a definite channel in the ground due to a hydraulic gradient, and which flows within, into, or out of an Area Subject to Protection under the Act. A portion of a stream may flow through a culvert or beneath a bridge. Such a body of running water which does not flow throughout the year (i.e., which is intermittent) and which may consist of a drainage way without a defined channel embankment, is also considered a stream.
8. **UPLAND:** land outside the boundary of any wetland resource areas, proposed wetland replication areas, or water bodies, and above the 100-year flood elevation.
9. **WATER POLLUTION:** contamination of surface water or groundwater.
10. Except as otherwise provided in the Bylaw or Regulations, the definitions of terms and procedures in the Bylaw and Regulations shall be as set forth in the Wetlands Protection Act (MGL Ch. 131 § 40) and Regulations (310 CMR 10.00).

SECTION III- DETERMINATION OF APPLICABILITY

A. General

Any person who desires a Determination as to whether the Bylaw applies to an area, or to work to be performed in an area, or who desires to confirm the delineation of wetland boundaries on three (3) acres or less shall submit a written request and the appropriate fee to the Commission. Any person who desires to confirm the delineation of wetland boundaries on a parcel of land greater than three (3) acres shall submit a written request and the appropriate fee to the Commission and shall, in addition, file with the Commission an Abbreviated Notice of Resource Area Delineation (ANRAD) as specified under MGL Chapter 131, § 40.

B. Filing Procedures

A Request for Determination of Applicability (RDA) on the appropriate application packet and the appropriate fee shall be submitted to the Commission and received by the Commission at least seven (7) business days prior to the meeting. All applications shall include the original material, two (2) hard copies, and an electronic copy by email, flash drive, CD, or other form acceptable to the Commission. The applicant shall provide additional copies to the Commission upon request.

Notice of the time and place of the public meeting shall be given by the Commission, at the expense of the applicant, not less than five (5) business days prior to the meeting, by publication in a newspaper of general circulation in the Town.

C. Interdepartmental Review

Any person filing a Request for Determination of Applicability (RDA) with the Commission shall provide an electronic copy thereof at the same time, by email, flash drive, CD, or other form acceptable to the Commission. The Commission shall distribute this electronic copy to the following departments for interdepartmental review purposes: Board of Selectmen, Planning Board, Board of Health, Town Engineer, Building Inspector, Sewer Department, and the applicable Water District. The applicant shall have the right to receive any such comments and recommendations from other departments and to respond to them at a hearing of the Commission, prior to final action.

D. Public Meeting

The Commission shall hold a public meeting on the Request for Determination of Applicability (RDA) within twenty-one (21) days of the close of the day of the receipt of the Request.

E. Determination

Prior to making a determination, the Commission may require the submission of additional data deemed pertinent to the determination. Any additional materials requested by the Commission or its staff shall be submitted at least five business days prior to the scheduled meeting date. The Commission shall issue its determination in writing within twenty-one (21) days of the close of the public meeting, unless an extension is authorized in writing by the applicant.

SECTION IV- APPLICATION FOR WETLANDS PERMIT

A. General

Any person who desires review of an application for a Grafton Wetlands Protection Bylaw Permit, hereafter called a "Wetlands Permit," shall file with the Commission plans and specifications as required under MGL Chapter 131 § 40, and as further defined below.

B. Filing Procedure

An original, two (2) hard copies, and an electronic copy by email, flash drive, CD, or other form acceptable to the Commission of the application for the Wetlands Permit, and accompanying plans and appurtenant data, and the appropriate filing fee, payable to the "Town of Grafton," shall be sent by certified mail, or hand delivered, to the Grafton Conservation Commission, 30 Providence Road, Grafton, Massachusetts 01519. The applicant shall provide, as part of the application, a certified list of abutters to whom notice has been sent, in accordance with the provisions of Section 5 of the Bylaw. The notice to abutters shall be sent on the appropriate form within the application packet. No later than the date of the public hearing, the petitioner shall provide copies of signed receipts from abutters, as proof of notification, plus an affidavit of all to whom notice was given.

C. Incomplete Application

An application must include, at a minimum, a properly executed application packet and the items required under Section V of the Regulations, unless a waiver is granted by the Commission, pursuant to Section I.E. of the Regulations. If the Commission determines that an application is incomplete or improper, it shall notify the applicant within twenty-one (21) days of the date of receipt. The Commission may, at its discretion:

1. Return the entire application, in which case all required time periods for processing the application will become invalid;

2. Require that additional information or materials be submitted. Any additional materials requested by the Commission or its staff shall be submitted at least five business days prior to the scheduled meeting date.
3. Reschedule the public hearing, at the applicant's expense, to a date to be determined by the Commission.
4. Deny the Wetlands Permit.

D. Interdepartmental Review

Any person filing an application with the Commission shall provide an electronic copy thereof at the same time, by email, flash drive, CD, or other form acceptable to the Commission. The Commission shall distribute this electronic copy to the following departments for interdepartmental review purposes: Board of Selectmen, Planning Board, Board of Health, Town Engineer, Building Inspector, Sewer Department, and the applicable Water District. The applicant shall have the right to receive any such comments and recommendations from other departments and to respond to them at a hearing of the Commission, prior to final action.

SECTION V- PLANS

A. GENERAL

All applications shall include the original material and two (2) copies. The applicant shall provide additional copies to the Commission upon request.

For projects that require the filing of an Environmental Notification Form (ENF) under the Massachusetts Environmental Policy Act (MEPA), the applicant must demonstrate to the Commission that such a filing has been completed at the time the application is submitted.

In order to demonstrate full compliance with the Bylaw and Regulations, the applicant has the burden of proof to completely describe the site, the work, and its effect on the protected resource areas. The applicant is obligated to demonstrate that the work subject to regulation under the Bylaw and Regulations can be performed in a manner that meets all applicable performance standards and results in a negligible impact on the function and value of the protected resource areas.

Applicants are urged to retain the services of qualified, experienced, professional consultants when filing an application for a Wetlands Permit. Submission of incomplete or inadequate information or a failure to meet the burden of proof may result in delays and/or continuations in the review and hearing procedure. Failure to supply complete and adequate documentation describing the potential impact of the project on protected resource areas may result in the issuance of a denial.

The following standards and design specifications are intended to provide the Commission with the minimum amount of data needed to determine the impact of the project on the protected resource areas and to protect the health, safety, and welfare of the inhabitants of the Town of Grafton. The Commission may adopt and publish additional guidelines and minimum technical standards for plans, calculations, and environmental impact reports submitted with an application for a Wetlands Permit. The Commission may find it necessary to request additional site-specific information to adequately determine the effect of the work on protected resource areas.

All plans shall include: the title designating the name of the project, the location, the name(s) of the person(s) preparing the drawings, the date prepared, and the latest revision date.

Plans shall be stamped and signed by a duly qualified Registered Professional Engineer or Registered Land Surveyor of the Commonwealth of Massachusetts. Registered Professional Engineers shall indicate the engineering discipline in which they are certified.

Plans depicting proposed drainage systems must be stamped by a Registered Professional Civil Engineer.

B. TECHNICAL DATA AND PLANS

The following technical data shall be submitted, with calculations as necessary to substantiate the designs proposed.

1. Project Narrative Describing Proposed Work and Impacts

2. Locus Plan

An 8 ½" x 11" photocopy of the USGS quad sheet, showing the location of the proposed activity and the outline of the area in which the activity is located.

2. Assessors Map

An 8 ½" x 11" section of the Town of Grafton Assessors and Zoning Map on which the site of the proposed activity is outlined in red.

3. Existing Conditions Site Plans

- a. Property boundaries showing metes and bounds and abutters from the most recent information on record at the Assessor's Office.
- b. All zoning district boundaries including aquifer, floodplain, and wetland overlay districts.
- c. Existing contours at two (2) feet intervals based on the National Geodetic Vertical Datum.
- d. All existing natural and man-made features including tree lines, rock outcrops, stone walls, fence lines, cart roads, foot paths, overhead and underground utilities, and drainage structures.
- e. The location of all surface and subsurface water supplies, wells, sewer lines, and septic systems on the property and abutting properties.
- f. All water courses, water bodies, intermittent streams, vernal pools, springs, open and closed channels, drainage ways with or without a defined channel, storm drains, kettleholes, bordering or isolated land subject to flooding, and freshwater wetlands on the site and within 100 feet of the site and rivers and perennial streams on the site and within 200 feet of the site. The boundaries of these features shall be identified by a wetland scientist and marked by numbered flags. Delineation data sheets must be provided. Boundary locations shall be determined from an on-the-ground field survey performed by a registered land surveyor or registered professional civil engineer.
- g. Elevations of all natural and man-made drainage structures, waterways, and wetlands.
- h. Flood elevations of all natural and man-made waterways and water bodies as determined from the FEMA Flood Insurance Rate Maps and Flood Boundary and Floodway Maps. Where the floodplains of wetlands and water bodies have not been mapped by FEMA, hydrologic and hydraulic calculations must be prepared by a registered professional engineer to determine the boundary of the two (2), ten (10), and 100-year floodplains. Watershed modeling, hydrograph routing, and backwater analysis shall be performed using the nationally recognized modeling techniques developed by the USDA Natural Resource Conservation Service (NRCS). The NRCS Type III, 24-hour storm shall be used in the drainage calculations. Calculations based on a Rational Method analysis will not be accepted.
- i. Hydraulic calculations showing the full-flow capacity and velocity of all water courses, open and closed channels, and storm drains flowing into, on and out of the property.
- j. Soil boundaries as determined from mapping by the USDA Natural Resource Conservation Service (NRCS).
- k. Site plan shall be submitted at a scale of 1" = not more than 50'.

- l. Soil characteristics in representative portions of the site, including depth of peat, muck, and organic matter in wetland areas.
- m. Maximum groundwater elevations must be given. The calendar dates of measurement, samplings, and percolation tests on non-sewered lots shall be included.

4. Developed Conditions Site Plans

- a. All proposed man-made features including roads, driveways, parking areas, structures, buildings, overhead and underground utilities.
- b. Subsurface sewage disposal systems.
- c. Proposed grading and changes in elevation shown with two (2) foot contours and spot grades.
- d. All surface and subsurface drainage structures including the location, cross-section, slope, and surface treatment of all drainage channels and the inverts, slope, pipe materials, catch basins, manholes, and end treatment of all storm drains discharging within 100 feet of any wetland or waterway.
- e. The location and detail of all temporary erosion control devices, including but not limited to: diversions, terraces, silt fences, straw bale barriers, and sedimentation basins.

5. Supplemental Documentation

- a. Engineering calculations to fully support the design of compensating flood storage areas for alterations that affect bordering land subject to flooding and isolated land subject to flooding. The calculations shall detail the existing incremental flood storage volumes and the proposed incremental flood storage volumes up to and including the 100-year flood elevation.
- b. Engineering data shall be prepared that describes the alteration and replication of resource areas changed by site work that affects land under a water body, bank, and bordering vegetated wetland. Calculations shall show that the capacity and stability of existing and altered waterways is not impaired by the proposed work.
- c. Where alterations will exceed the maximum allowable thresholds described in 310 CMR 10.00 for land on the lower (10-year) floodplain, bank, land under a water body, or bordering land subject to flooding, or where the alteration of a habitat of a rare species is involved, or where a vernal pool, or other potentially significant wildlife habitat will be altered, a habitat study shall be performed by a qualified wildlife biologist. The habitat study and the design of a compensating wetland/wildlife habitat shall be performed in accordance with 310 CMR 10.60.
- d. Planting plans, specifications, and construction schedules shall be provided for all areas that will be altered within 100 feet of a bordering vegetated wetland. Specifications shall be provided for both temporary and permanent ground covers. Planting of invasive species is prohibited in this area.
- e. An erosion control plan shall be submitted describing all methods to control erosion and siltation on site, temporarily and permanently. The proposed location of any fill material which will be stored on site must be shown.
- f. A site-specific phasing plan shall be submitted for all projects disturbing three (3) acres or more.
- g. Where new point source discharges are proposed within 100 feet of a protected resource area, either through open channels or a closed subsurface system, a comprehensive storm water management system shall be designed that will not impair the value and function of the receiving or downstream water courses, wetlands, surface, and groundwater supplies. Stormwater management systems shall be designed to meet the Massachusetts Stormwater Management Standards detailed in the "Stormwater Management Policy" issued by the Massachusetts Department of Environmental Protection on November 18, 1996, and as may be amended. The applicant must submit a Stormwater Management Plan prepared by a registered Professional Civil Engineer that demonstrates compliance with the DEP Stormwater Management Policy and Town of Grafton Regulations. The plan must include a copy of the DEP Stormwater

Management Form describing how the project meets the stormwater management standards. The form must be signed and stamped by a registered Professional Civil Engineer.

- h. Stormwater management systems shall be designed, constructed, and operated in accordance with the March 1997 DEP Stormwater Management Handbooks: Volume I, Stormwater Policy Handbook; and Volume II, Stormwater Technical Handbook. In addition, detention basins, wet ponds and infiltration systems shall also be designed to meet the following standards:
 - i. The maximum slope of the embankment on both the inside and outside of the basin shall be no steeper than three (3) horizontal to one (1) vertical.
 - ii. The minimum width of the top of an earthen embankment shall be twelve (12) feet along the side designed for maintenance access and ten (10) along the remaining sides.
 - iii. If determined to be necessary by the applicant, the Commission, or Grafton's Department of Public Works (DPW), basins may be fenced and securely gated to deter unauthorized access. Fencing shall be placed so as not to interfere with the maintenance of the basin or impede wildlife travel.
 - iv. The basin may not be located within 100 feet of an existing residence.
 - v. The applicant shall be responsible for securing by way of a covenant, easement, deed restriction, bond, or other legal instrument a perpetual mechanism or fund for the maintenance or repair of the basin by the heirs and assigns of the property on which the basin is located.
 - vi. Forebays shall be sized for a minimum of 0.1-inch runoff/acre times the entire drainage area to the forebay, not just the impervious area.
 - vii. The basin and outlet structures shall be located a minimum distance of twenty-five (25) feet outside the boundary of all water resource areas and important wildlife habitat areas.
 - viii. The basin shall be designed to intercept overflows from the upstream storm drainage system when the capacity of this collection system is exceeded by the maximum designed storm. Diversions, swales, high capacity inlet grates, and other hydraulic improvements may be necessary to successfully collect and transmit flows to the detention basin.
 - ix. The soil structure and composition at the bottom of a wet basin shall be capable of supporting wetland vegetation within two (2) years following the completion of the storm drainage system.
 - x. Infiltration systems shall be designed in conjunction with other best management practices that remove at least 80% of the total suspended solids before discharging to the infiltration system.
 - xi. Infiltration-type drainage systems shall be located outside the boundary of all protected wetland resource areas and wildlife habitat areas.

C. GENERAL PERFORMANCE STANDARDS AND WETLAND REPLICATION

- 1. In situations where the applicant demonstrates that there are no feasible alternatives that provide for fewer impacts on the wetland resource values, the Commission *may* allow the loss, alteration, or temporary surface disturbance of up to a cumulative total of five thousand (5,000) square feet of wetlands and related surface and ground water resource areas when said areas are replaced, replicated, or restored in accordance with the following criteria:
 - a. Applicants proposing to construct wetland replication areas of any size shall submit a Replication Plan to the Commission for approval. Wetland replication areas must be designed, constructed, and monitored in accordance with the Massachusetts Inland Wetland Replication Guidelines, dated March 1, 2002 and as amended.

- b. Replicated wetlands and compensatory flood storage areas must be excavated and graded to the specifications in the plan prior to the construction that will alter or disturb the wetlands and related surface and ground water resource areas, except in instances where alteration is necessary to create access to replication area. In the event that the creation of such access is necessary, then wetland plants and soils shall be removed and stockpiled for use in the replication area. The preparation and planting of the replication area shall be completed as soon as is practicable following alteration, but in no event later than thirty (30) days after the commencement of alteration. Once wetland alteration has commenced, no other work is to be commenced on site until the replication area is complete.
 - c. Replication is prohibited in areas providing habitat for rare and endangered species as listed by the Massachusetts Natural Heritage & Endangered Species Program (NHESP). The Commission may further prohibit replication in areas determined to be significant wildlife habitat areas.
 - d. The maximum allowable five thousand (5,000) square foot cumulative total disturbance of wetlands that *may* be permitted shall apply to the entire property referenced in the application, and including any abutting property presently or formerly owned by the same owner. The Commission will consider the total cumulative environmental impact of projects segmented by multiple applications, multiple phases, multiple ownerships, or subsequent multiple subdivisions and may impose conditions designed to enforce threshold limitations.
2. Notwithstanding other provisions of Section V, the Commission may permit the construction and maintenance of a new roadway or driveway of minimum legal and practical width acceptable to Planning Board dimensional standards, where an owner has no alternative means of access from an existing public or private way or across other property of the same owner from an existing public or private way, to any of the upland area on the property. Replication of altered wetland resources may be required by the Commission to minimize adverse impacts and to protect the interests identified in the Bylaw.
3. Wetland alterations intended to make land buildable, as by fulfilling septic system setback requirements, flood elevation requirements, or other minimum construction setback requirements, or to achieve minimum lot area requirements, or to provide access to multiple upland areas of the same owner, are prohibited.
4. Alteration and disturbance of adjoining land areas may be permitted on a lot with a total contiguous upland acreage of at least seventy-five (75) percent of the minimum building lot size for the zoning district in which it is located, provided that such alteration and disturbance is proposed within the portion of the lot containing said contiguous upland acreage. Detention, retention, and infiltration basins, and other stormwater management structures, including the easement for such structures, are not considered upland. For existing nonconforming lots that are smaller than the minimum building lot size for the zoning district in which they are located, alteration and disturbance of adjoining land areas may be permitted on a lot with a total contiguous upland acreage of at least (seventy-five) 75 percent of the total lot area, provided that such alteration and disturbance is proposed within the portion of the lot containing said contiguous upland acreage.
5. The Commission has determined that activities in the jurisdictional resource areas abutting wetlands, water bodies, and land subject to flooding as set out in the Bylaw pose a significant risk to the health of such wetland resource areas. The role that a protective buffer zone plays in the maintenance of healthy resource areas is well established. There is a direct relationship between increased nitrogen, phosphorous, and pollutant loading to wetlands and water bodies when their watersheds are cleared. Water quality can be better maintained if undisturbed vegetative areas are maintained and preserved along surface water bodies. Adverse impacts from sediment erosion and transport are also minimized with the maintenance of undisturbed vegetation between the site development and the wetland resource

area. Further, the transitional assemblage of trees, shrubs, and groundcover found in undisturbed naturally vegetated areas is known to be significant to the support of a greater number of native wildlife species and fauna in the interior of resource areas which they border.

- a. Therefore, alteration and disturbance is prohibited within the first twenty-five (25) feet (measured horizontally outward from the water/wetland resource boundary) of the following resource areas as set out in the Bylaw: “within 100 feet of any freshwater wetland, vegetative wetland, marsh, wet meadow, bog or swamp; within 100 feet of any bank, beach or flat; any lake, river, pond, stream or estuary; within 100 feet of any lake, river, pond, stream or estuary; any land under said waters; or within 100 feet of any land subject to flooding or inundation by groundwater, surface water, tidal action, or storm flowage.”
 - b. A minimum setback does not apply to water-access structures (docks, boat ramps, beaches) or wetland dependent structures, unpaved public trails, and alteration necessary for upland access as permitted elsewhere in Section C above. However, the Commission may impose such setbacks as required to protect the interests of the Bylaw.
 - c. The leaching facility of subsurface sewage disposal systems is prohibited within any portion of the jurisdictional resource areas set out in the Bylaw.
 - d. Underground storage of gasoline, oil, other fuels, and hazardous materials is prohibited within any portion of the jurisdictional resource areas set out in the Bylaw.
 - e. For projects involving steep slopes, highly erodible soils, extensive disturbed areas, or hydrologic conditions likely to promote significant erosion, the Commission may require a wider undisturbed buffer to ensure protection of wetland resource areas.
 - f. Pre-existing activities or structures not meeting these criteria need not be discontinued or removed.
6. The Commission may waive the application of the general performance standards when the applicant has demonstrated that there is an overriding need to impose alternative conditions that will otherwise contribute to the protection of the interests identified in the Bylaw.

SECTION VI-PUBLIC HEARINGS

1. Public hearings on applications filed pursuant to the Bylaw and Regulations may be conducted simultaneously with public hearings held pursuant to MGL Chapter 131, § 40, as amended.
2. The Commission shall commence the public hearing within twenty-one (21) days of receipt of a complete application unless an extension is authorized in writing by the applicant.
3. The Commission may continue the public hearing to a date certain announced at the hearing, for reasons stated at the hearing. In the event that the applicant objects to a continuance, the hearing shall be closed and the Commission shall take action on such information as is available.

SECTION VII- WETLANDS PERMITS AND DECISIONS

1. As part of a Wetlands Permit issued pursuant to the Bylaw, the Commission shall impose such conditions as are necessary to protect the values of wetlands, related water resources, and adjoining land areas under its jurisdiction.
2. If the Commission deems that the interests stated in the Bylaw are not adequately protected under the terms of the applicant’s proposal, the Commission may deny a Wetlands Permit. Where the Commission votes to deny a Wetlands Permit, it shall issue a written decision.

3. The Commission may require, as a condition of a Wetlands Permit, that certain work shall be performed within specific periods of time.
4. Wetlands Permits approved pursuant to the Bylaw shall be issued on separate forms from the Orders of Conditions issued under the Massachusetts Wetlands Protection Act.
5. The Commission shall issue its Wetlands Permit, or decision to deny its Wetlands Permit, in writing within twenty-one (21) days of the close of the public hearing thereon unless an extension is authorized in writing by the applicant.
6. The Commission may, at its discretion, issue an Extension Permit for a period of up to three (3) years provided that a written request for an extension is filed at least thirty (30) days prior to the expiration date of the Wetlands Permit and the extension fee is paid with the request for Extension Permit. The Commission shall vote on the request within twenty-one (21) days of receipt of the request for extension. The Commission shall issue a written approval or denial of the extension within twenty-one (21) days of the vote. The Commission may impose additional conditions in its approval.
7. The Commission may revoke or modify a Wetlands Permit issued under this Bylaw if any of the following circumstances occur:
 - a. The applicant and/ or his successors fail(s) to comply with the terms of the Wetlands Permit;
 - b. The applicant and/or his successors fail(s) to comply with the terms of other town permits which have been issued for the project and the issuing authority has requested in writing that the Commission revoke or modify the Wetlands Permit.

No revocation or modification shall be voted upon until after the Commission has conducted a public hearing on the matter.

8. A Request for Determination of Applicability (RDA), application for Wetlands Permit or any other proceeding before this Commission under the Bylaw and Regulations shall expire when the applicant has failed to diligently pursue the issuance of the Determination or Wetlands Permit or other proceeding. A Request for Determination of Applicability (RDA), application for Wetlands Permit or any other proceeding shall be presumed to have expired one (1) year after that date of filing unless the applicant submits information showing that (a) good cause exists for the delay of proceedings under the Bylaw and Regulations, and (b) the applicant has continued to pursue the project diligently in other forums in the intervening period; provided, however, that unfavorable financial circumstances shall not constitute good cause for delay. No application for Wetlands Permit, Determination of Applicability (RDA), or other proceeding shall be deemed to have expired under this section when adjudicatory hearing is pending and when the applicant has provided all information necessary to continue with the prosecution of the case.

SECTION VIII- PRE-CONSTRUCTION REQUIREMENTS

1. Prior to commencement of site alteration, the petitioner shall provide to the Commission receipted proof that the Wetlands Permit has been recorded in the chain of title of the subject property at the Worcester District Registry of Deeds.
2. Prior to commencement of site alteration, the petitioner shall display, at the entrance of the site, a sign, at least two (2)' x two (2)' and no longer than three (3)' x three (3)', giving the Wetlands Permit file number assigned to the project as follows:

“GRAFTON WETLANDS PERMIT NO. ___”

The sign shall be displayed at all times and shall not be removed until a Certificate of Compliance has been issued by the Commission. The sign, in appropriate cases, may be the same sign as that required by an Order of Conditions, provided that the words:

“GRAFTON WETLANDS PERMIT NO. _____” are displayed.

SECTION IX- APPEALS

Any person aggrieved by the Wetlands Permit or decision of the Commission, whether or not previously a party to the proceeding, may appeal according to MGL Ch. 249 § 4.

Appeals shall be made to Worcester Superior Court within sixty (60) days of the date of the signing and/or issuance of said Wetlands Permit or decision, whichever is the later. Notice of the appeal and a copy of the complaint shall be sent by certified mail, or hand-delivered, to the Commission, the Town Clerk, its authorized representative, and Town Counsel, so as to be received within ten (10) days.

The appeal shall contain any facts pertinent to the issue, a copy of the decision being appealed, bearing the date of filing thereof, the complete name and address of the party filing the appeal, the name and address of the attorney, if any, representing the person filing the appeal, and the relief being sought.

If the appeal is filed by some person or persons other than the original applicant, appellant or petitioner, the original applicant and all members of the Commission shall be named as parties defendant.

SECTION X- CERTIFICATE OF COMPLIANCE

Upon completion of the project, the applicant shall submit a request in writing to the Commission for a Certificate of Compliance. This request shall be accompanied by a Registered Professional Engineer's certification of project compliance with the Wetlands Permit or an “as built” plan and engineer's explanation as to how and why the project differs from the project as permitted. The applicant must also submit a copy of the request to the current owner of the property subject to the release.

If, after a site inspection, the Commission determines that the requirements of the Wetlands Permit have not been satisfactorily met, the request for a Certificate of Compliance may be denied. The decision, along with the reasons for denial, shall be forwarded to the applicant within twenty-one (21) days of the receipt of the request.

The Commission may specify on the Certificate of Compliance that certain conditions of the Wetlands Permit, including, but not limited to: maintenance of waterways, erosion control, and undisturbed vegetated buffers are imposed perpetually and do not expire with the issuance of the Certificate of Compliance.

The person to whom the Certificate of Compliance is issued shall record the Certificate of Compliance, at the Worcester District Registry of Deeds in the chain of title of the affected property and shall notify the Commission, in writing, that said recording has occurred, by sending a copy of the recorded instrument to the Commission.

SECTION XI- PERFORMANCE GUARANTEE

A. Bonds of Surety

The Commission may require the applicant to file a surety company performance bond or a deposit of money in an amount determined by the Commission to be sufficient to cover the cost of all or any part of the site alterations specified in the Wetlands Permit and/or shown on the plans approved by the Commission. Such bond or surety, if required to be filed or deposited, shall be approved, as to form and manner of execution by the Town Counsel, and as to the sureties by the Town Treasurer, and shall be contingent upon the completion of

such alterations within the time frame of the Wetlands Permit and extension, if granted. The Commission will require a bond for projects which include wetland filling, stream crossings, and/or replication and may require a bond for other projects.

B. Covenant

The Commission may require the applicant to secure performance and observance conditions imposed on the project, by a conservation restriction, easement, or other covenant enforceable in a court of law, executed and duly recorded by the owner of record, running with the land to the benefit of the Town and members of the public, whereby the Wetlands Permit conditions shall be performed and observed before any lot may be conveyed other than by mortgage deed.

C. Reduction of Bond or Surety

The penal sum of any required bond, or the amount of any deposit held hereunder may be reduced by the Commission and the obligations of the parties thereto released by the Commission in whole or in part.

D. Release of Performance Guarantee

Upon satisfactory completion of the work subject to the Wetlands Permit, security for the performance, which was given by bond, deposit, or covenant, or upon the complete performance of the covenants with respect to the site, the applicant may request and agree on terms of release with the Commission.

If the Commission determines that said work has been completed in compliance with the conditions of the Wetlands Permit, it shall release the interest of the Town in such bond and return the bond or the deposit to the person who furnished same, or release the covenant, if appropriate.

If the Commission determines that said alterations have not been completed in compliance with the Wetlands Permit, it shall, within forty-five (45) days of such determination, specify to the applicant, in writing, the details wherein said alterations fail to comply with the Wetlands Permit. If the applicant fails to comply within sixty (60) days of receipt of such written notice, the Commission has the authority to use the bond to complete the work.

SECTION XII- AVAILABILITY OF REGULATIONS

Copies of the revised Regulations for the Administration of the Grafton Wetlands Protection Bylaw and the Bylaw are available from the Grafton Conservation Commission office at 30 Providence Road, Grafton Massachusetts 01519. A copy of the Regulations is also available on the official town website at www.grafton-ma.gov

Forms referenced herein are available in the Conservation Commission office and online at www.grafton-ma.gov/conservation-commission

SECTION XIII- AMENDMENTS

The Regulations may be amended by a majority vote of the Commission. All amendments shall be effective upon adoption by the Commission following a public hearing and filing with the Town Clerk in accordance with time requirements as set out in the Town Charter, Section 7-6.

SECTION XIV – SEVERABILITY

The invalidity of any section, provision, paragraph, sentence, or clause of these Regulations shall not invalidate any section, provision, paragraph, sentence, or clause thereof, nor shall it invalidate any permit or determination that has been previously issued.

GRAFTON CONSERVATION COMMISSION